

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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| BARRY E. SHELLEY, | : | |
| Plaintiff, | : | |
| v. | : | Case No. 3:09-cv-182-MBC-KAP |
| JEFFERY MULLEN, <u>et al.</u> , | : | |
| Defendant | : | |

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on November 2, 2010, docket no. 26, recommending that the defendants' motion to dismiss, docket no. 22, should be granted. The parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to serve and file written objections to the Report and Recommendation. No one has filed objections and the time to do so has expired.

After review of the record, the Report and Recommendation, and noting the absence of timely objections thereto, the following order is entered:

AND NOW, this 24th day of November, 2010, it is

ORDERED that defendants' motion to dismiss, docket no. 22, is granted. Plaintiff's Motion for Extension of Time to File Response (Doc. 25) is denied. Plaintiff's complaint is dismissed. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

/s/ Maurice B. Cohill, Jr.
MAURICE B. COHILL, Jr.,
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

Barry Shelley
364 Covered Bridge Road
Rockwood, PA 15557